IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE K.BALAKRISHNAN NAIR

FRIDAY, THE 2ND NOVEMBER 2007 / 11TH KARTHIKA 1929

R.P.No. 1027 of 2007(C)

AGAINST THE JUDGEMENT IN W.P.(C).NO.5280/2006 DATED 19/01/2007.
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REVIEW PETITIONER/1ST RESPONDENT IN THE W.P.(C):

THE MALAMPUZHA GRAMA PANCHAYAT,
PALAKKAD-678 651, REPRESENTED BY ITS SECRETARY.

BY ADV. SRI.N.RAGHURAJ,
ADV. SRI.A.V.RAVI.

RESPONDENTS/ PETITIONER AND 2ND RESPONDENT IN THE W.P.(C):
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1. **THE TRICHUR WHOLESALE CO-OPERATIVE CONSUMER STORES LTD., NO.R.239, THRISSUR-1, REPRESENTED BY ITS MANAGING DIRECTOR.**

2. **THE DIRECTOR OF PANCHAYATHS, THIRUVANANTHAPURAM.**

BY ADV. SRI. P. RAMAKRISHNAN.

THIS REVIEW PETITION HAVING BEEN FINALLY HEARD ON 02/11/2007,THE COURT ON THE SAME DAY PASSED THE FOLLOWING:

K.BALAKRISHNAN NAIR , J.

RP No.1027 of 2007 in WPC No.5280 of 2006

Order

The review petitioner is Malapuzha grama panchayat, which was the first respondent in the Writ Petition. The claim of the writ petitioner, which is a Co-operative Society was that it supplied certain goods to the first respondent panchayat, but so far, the bills raised on it have not been honoured. This Court issued a direction to settle the claim of the Society within a time frame. The review petitioner submits that there is no privity of contract between it and the writ petitioner Society concerning supply of goods mentioned in Ext.P4. The convenors of the projects have placed the orders with the writ petitioner and 90% of the amounts payable to the convenors has already been released by the panchayat, it is submitted. Since the panchayat has nothing to do with the supplies made, it has nothing to settle with the writ petitioner. The Writ Petition happened to be disposed of even before the panchayat could file a counter affidavit and so, the above facts could not be placed before this Court, it is submitted.

2. The learned counsel for the writ petitioner opposes the application. But, having regard to the facts of the case, I feel that the panchayat should be given an opportunity to file a counter affidavit in the Writ Petition and contest the same. But the same can be allowed only on terms as the Society has been unnecessarily harassed by the omission of the panchayat to file a counter affidavit in time. Accordingly, the RP is allowed. The Judgment under review is recalled and the Writ Petition is restored to file on condition that the review petitioner pays Rs.1,500/- to the writ petitioner within one month from today.

02.11.2007 **K.BALAKRISHNAN NAIR,JUDGE**

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